GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR)

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Zamrud Printing Press, Market Road, Gulbarga.

Award of the Labour Court, Hubli: Published.

Read the following papers:

1. Letter No. 14f0/67-68, dated 30th September 1967 from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI.

Date: 30*th September* 1967.

Reference (ID) (LCH) No. 77 of 1966

Present:

Shri Syed Azizuddin Ahmed, M.A., B.L., ... *Presiding Officer.*

Between

The Workmen of Zamrud Printing Press, Market Road, Gulbarga, represented by the President, Divisional Printing Press Workers' Union, Gulbarga. ... *I Party.*

and

The Management of Zamrud Printing Press, Market Road, Gulbarga. ... *II Party.*

The Government of Mysore being of the opinion that an industrial dispute exists between the Workmen and the Management of Zamrud Printing Press, Market Road, Gulbarga have referred it to this Court for adjudication under Section 10 (1) (c) of the Industrial Disputes Act, 1947, by their Order No. LMA 465 LLD 66, dated 5th December 1966. The points of dispute referred for adjudication are as under:

> "Is the Management of Zamrud Press, Market Road, Gulbarga justified in removing from the services the following two workers?

(1) Sbri Khurshid Ali (2) Sbri Shaik Nadeem.
If not, are they entitled for reinstatement with continuity of service?"

2. The cause of the aggrieved workmen has been sponscred and espoused by the Divisional Printing Press Worker's Union, Gulbarga, represented by its President. Sri M. I. Junedi, Presiden of the Union appeared for the first party while no one appeared for the second party. Notices were issued more than once to the second party but they were returned unserved. Hence, it was set *ex parte*. The aggrieved workmen Sri Khurshid Ali and Sri Shaik Nadeem have filed seperate claim statements.

3 The sum and substance of the claim statement of Khurshid Ali is that he was employed with the second party from the year 1952 to 29th March 1966 on which day he was for no reason whatsoever dismissed. He used to draw a salary of Rs. 100 P.M. The dismissal was caused on a very silly excuse namely that on 29th March 1966 he happened to be late in reporting to his work by just 3 hours. He was first allowed to go ahead and attend to his work but in the meantime Sri Abdul Khader approached him and started abusing him in vulgar language. He caught hold of his shervani and tore the button of the shervani and assaulted him He then necked him out of the premises and threatened violence saying that he could go to any Court or Tribunal and none could do anything to him on this earth Sri Khurshid Ali wanted to go to the Police but he was advised by old timers not to spend any money on this score. The aggrieved workman has thus been removed from service for no fault what so ever and was subjected to great humiliation and rightly deserves reinstatement in his job with full back wages an all other benefits and contiquity of service. The claim statement contains the details of the benefits claimed on his behalf.

4 The case of Shaik Nadeem is that he was working as a composer under the second party from the year 1946 to 14th February 1966. He was a regular worker and a very obedient one. He was drawing a salary of Rs. 90 per month. It so happened that he fell ill a day prior to 14th February 1966. On this day he sent the intimation of sickness to the second party. On 16th February 1966 he went to the printing press and requested the Management to pay him some money as he was badly in need of it to purchase medicines. Instead of sympathising with the

employee the second party merely paid him Rs. 22 being his wages from 8th February 1966 to 14th February 1966 and told him that he was sacked. Thus the second party without any reason whatsoever terminated the service of the workman without following any procedure and throwing all canons of law to the winds. Thus the termination of the service of the employee was most unreasonable, unilateral and illegal. It was prayed that he may be reinstated in his original post with full back wages and continuity of service or in the alternative to pay him suitable compensation as per law. The claim statement details the other benefits claimed on behalf of the workman.

5. The points of dispute specified in the order of reference were adopted as issues in the case. Both the aggrieved workmen examined themselves and closed their oral evidence. In all the first party got marked 10 documents as exhibits in the case.

FINDINGS

6. The important point that arises for determination is whether the management was justified in dispensing with the services of the aggrieved workmen. I shall discuss the oral evidence first. The sum and substance of the sworn statement of Khurshid Ali W-W 1 is that he joined the service of the second party in the year 1353 Fasli. He used to work in the printing as well as the binding sections. In the year 1948 after the Police action he left Gulbarga and went away to Hyderabad When he returned in 1952 the management took him in their press as a fresher. He worked here till 29th March 1966. On this day he came late to the press by 20 minutes. Thereupon the management refused to take him on duty. Mr Abdul Khadar who was working there as manager caught hold of his shirt. This matter was compounded, so he did not inform the Police. On that day other workers had come later than him to the press but they were taken on work, and he was discriminated.

7. The sworn testimony of Shaik Nadeem W-W-2 is that he was working in the Ali Hajaz Press Bombay in the year 1947. In the month of August 1947 he came to Gulbarga. After staying here for some time he wanted to return to Bombay. At that time Abdul Kareem and Abdul Gafoor the proprietors of the press asked him to work in the press and prevailed upon him to join their

service. He worked with the second party till 1952. When the management removed him from service he made an application to the Labour as a result of which he was taken back in service. On 13th January 1965 he fell ill. He informed this to the management on 14th and 15th January 1966. On 16th January 1966 he asked the management to pay him either a loan or something by way of salary. They paid his one week's wages Rs. 22-50. After 4 days he again asked for a loan. Thereupon they refused to pay him loan and terminated his services. He has put in 20 years service with the management. His salary was Rs. 90 per month.

8. The attitude of the manggement was not helpful in the case. But the workmen cannot be reinstated in service because of any laps on the part of the management they have to establish by positive evidence that they were in service of the management and that services were dispensed with illegally.

I shall first examine the case of Kurshid Ali. Here is a workmen who went to his job 3 hours late and says that he was late just late by 3 hours, as though they were only 3 seconds. In his sworn testimony he modifies his statement by saying that he was late by 20 minutes only. On his own admission the other who had come to the press later than him were allowed to work but he alone was maltreated and discontinued. I am not prepared to give any credence to this piece of statement. The question is why should the management discriminated the particular workmen. He seems to be a stormy petrel. In his claim statement he stated that Abdul Khadar caught hold of his Shervani and tore away the buttons from his Shervani and assaulted him. In his testimony before the Court he deposed that Abdul Khadar had caught hold of his shirt. It has been rightly said that false witnesses have short memories. No management worth the name would tolerate latte coming on the part of their employees. Kburshid Ali stands self condemned. He was late by 3 hours. He had a quarrel with the management and the later was perfectly justified in putting an end to his service.

9. I shall next consider the case of Sri Shaik Nadeem. He is another stormy petrel. He admits in his sworn testimony that in the year 1952 the management has terminated his services. But hastened to add that he was taken back in service when he made an application to the Labour Officer. I fail to understand how the management who had removed him from service took him

back in service when he just made a complaint to the labour officer : even without the intervention of the Labour Officer. The whole story set up by him is a travesty of truth. He has filed no less than 10 documents but most of them are fit to be food for the Waste Paper Bask-t. I have before me a document Exh. W-1 filed by the first party relating to Shaik Nadeem. It is a letter from Shaik Nadeem while he was working in the Al Hijaz Printing Press, Bombay. I shall reproduce here the first few lines. They run thus.

> "The amount of pay of mine due from you and also the bonus for about 4 or 5 years has not been paid to me, and it is not understood as to why the said delay is being done in the payment thereof. I have already requested to settle the said accounts of mine and remit to my Bombay address."

This letter ends on a note. This is a very important note and throws a flood of light on the claim of the workman. It runs thus

> "In the month of December 1951 without any mistake being committed by me, without any reason, you have informed me about the termination of my service instantaneously after putting up a service of about 4 or 5 years under you and the treatment has been meted out as if with an ordinary coolie or labourer. Please note that the present is not the "asafia" reign. Inspite of this I had been waiting for a long period of 5 months and I have found to my great regret that no reply what so ever has come out of the repeated correspondence entered into with you. nor any other satisfactory out come has come out. And seeing such an attitude from you, I have been compelled to adopt such proceeding, as stated herein above. I once again wait for one more week, and later on you may not state that you were unaware of.

Yours faithfully

dated : 31st May 1952

Sd/Shaik Nadeem,
for Zamarrud Press,
Gulbarga.

From a perusal of the document it is crystle clear that his services had been dispensed with as back as in the year 1951 itself and he had joined the service of Al Hijaz Printing Press, Bombay. He wanted the second party to settle off his accounts even. Now he wants the Court to believe that after terminating his services the second party and again taken him back in service. There is no cogent and reliable evidence to substantiate his claim. It is hard to believe that the management would have taken him back in service when he had addressed them in such harsh language. It is equally difficult to believe that Shaik Nadeem who was well placed in Al Hijaz Printing Press, Bombay would have come down to Gulbarga. It is no wonder that after quiting the Al Hijaz Printing Press, Bombay later he thought of raising some dispute with the second party and to settle his old differences with them. There is yet another document of importance. It is Exh. W-1 (a). In this document he writes "The Proprietor of this press is Mr. Abdul Kareem who has handed over the charge of the press to Mr. Abdul Qadir, Demonstrator of Engineering College, Gulbarga who is his nearest relation. The intention of the proprietor is to abolish the previous services of we poor Labourers. The charge was handed over on 1st January 1966". From this it is apparent that there is a change in the proprietorship of the press on 1st January 1966. This important fact has not been divulged in the claim statement of both the workmen. The previous proprietor and the present ought to have been made proforma parties to the reference. Exh. W-3 is an old diary. Exh. W-3 is a piece of paper exhibiting the various specimens of the types in the press. Exh W—4 is a blank proforma of the duty card. Exh. W—5 and W—6 are the letters dated 24th September 1947 and 16th October 1954 respectively addressed to Shaik Nadeem. Exh. W—7 is another letter dated 11th June 1947. Exh. W-8 is yet another later dated 22nd August 1949 addressed to Shri. Shaik Nadeem informing that the testicles of one Basher Ahmed had become swollen and needed operation. Exh. W-9 is a post card dated 11th August 1949 and Exh. W-10 is a postal acknowledgement receipt purporting to have been sent by Shaik Nadeem on 31st May 1952 while he has working in Al Hijaz Printing Press Bombay. It is beyond ones comprehension how these documents could corroborate the claim statement of the aggrieved workmen. Shaik Nadeem is a person who has already attained the age of superannuation. There can be no question of his reinstatement at this length of time. Both the workmen lay claim to certain benefits viz, service gratuity and leave wages etc. The question of their entitlement to benefits does not find a place in the points of dispute specified in the order of reference. So

this point cannot be considered at all. However there is nothing on record to show that the gratuity scheme was in force in the second party concern. Leave wages is a benefit to be enjoyed and not encashed. They are not entitled to notice pay. As a natural corolary to the above discussion the points of dispute referred for adjudication are answered against the first party.

AWARD

The management of Zamrud Printing Press, Gulbarga was justified in removing from the service Sri Khurshid Ali. Shaik Nadeem appears to have given up the service of the second party as early as 1951. There is nothing to show that the second party had terminated the services of Shri Shaik Nadeem. The parties shall bear their own costs.

Place : Hubli.
Date : 30-9-1967

Syed Azizuddin Ahmed
Presiding Officer,
Labour Court, Hubli

ANNEXURE

List of Witnesses examined by the first Party

W.W. 1 Shri. Khurshid Ali.
W.W. 2 Shri. Shaik Nadeem.

List of Witnesses examined by the Second Party

Nil

List of Documents marked by the first Party

Exhibits:

W-1 Letter dated 31st May 1952 by W.W. 2 addressed to second party.

W-1-A Copy of letter dated 29th March 1966 by workmen of second party.

W-2 Old Diary.
W-3 Printed piece of paper exhibiting various types.
W-4 Blank proforma of the duty card.
W-5 & W-6 Letters dated 24th September 1947 and 16th October 1954 respectively.
W-7 Letter dated 11th June 1947.
W-8 Letter dated 22nd August 1949. addressed to W.W. 2
W-9 Post card dated 11th August 1949.
W-10 Postal acknowledgement receipt.

Place. Hubli
Date. 30-9-1967

Syed Azizuddin Ahmed
Presiding Officer,
Labour Court, Hubli.

ORDER

Bangalore, dated the 20th October 1967.

S.O. 2101.—WHEREAS by State Government Order No. LMA 465 LLD 66, dated 5th December 1966 the Industrial Dispute between the Workmen and the Management of Zamrud Printing Press, Market Road, Gulbarga was referred to the Labour Court, Hubli for adjudication;

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 465 LLD 66.]

By Order and in the name of the Governor of Mysore,

1321 G. G. PUROHIT, *Under Secy.*